

ORDINANCE NO O-090-2017

AN ORDINANCE OF THE LAFAYETTE CITY-PARISH COUNCIL TO AMEND CHAPTER 6, "ALCOHOLIC BEVERAGES," ARTICLE I, "IN GENERAL," SECTION 6-1, "DEFINITIONS," OF THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT CODE OF ORDINANCES IN ORDER TO AMEND THE DEFINITION OF "DIRECTOR" IN ORDER TO EXCLUDE A REFERENCE TO THE SHERIFF; TO CREATE CHAPTER 6, "ALCOHOLIC BEVERAGES," ARTICLE I, "IN GENERAL," SECTION 6-15, "EMERGENCY CLOSURE OF AN ESTABLISHMENT BY LAW ENFORCEMENT OFFICIAL; VIOLATION; TERMINATION OF CLOSURE ORDER; DEFINITION," SECTION 6-16, "SIGN(S) TO BE POSTED AT EACH ENTRANCE IN THE EVENT OF AN EMERGENCY CLOSURE; REMOVAL OF SIGN(S)," AND SECTION 6-17, "PENALTIES FOR VIOLATION OF EMERGENCY CLOSURE ORDER; FAILURE TO COMPLY," OF THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT CODE OF ORDINANCES IN ORDER TO AUTHORIZE THE APPROPRIATE LAW ENFORCEMENT OFFICIAL TO ORDER AN EMERGENCY CLOSURE OF AN ESTABLISHMENT IN THE CITY OF LAFAYETTE AND/OR THE UNINCORPORATED AREAS OF THE PARISH OF LAFAYETTE WHEN PRESENTED WITH AN IMMINENT DANGER TO THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC, TO REQUIRE SIGNS TO BE POSTED INDICATING CLOSURE, AND TO PENALIZE PERSONS WHO FAIL TO COMPLY WITH AN EMERGENCY ORDER

BE IT ORDAINED by the Lafayette City-Parish Council, that:

WHEREAS, the Lafayette City-Parish Council, in its desire to increase its efforts to obtain and maintain peace and good order in an establishment located in the City of Lafayette and the unincorporated areas of the Parish of Lafayette, wishes to enact an ordinance authorizing the Law Enforcement Official to order an emergency closure of an establishment in the City of Lafayette and/or the unincorporated areas of the Parish of Lafayette when presented with an imminent danger to the health, safety and welfare of the public, to require signs to be posted indicating closure, and to penalize persons who fail to comply with an emergency order; and

WHEREAS, Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-1, "Definitions," of the Lafayette City-Parish Consolidated Government Code of Ordinances needs to be amended in order to amend the definition of "Director" in order to exclude reference to the Sheriff; and

WHEREAS, Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-15, "Emergency Closure of an Establishment by Law Enforcement Official; Violation; Termination of Closure Order; Definition," Section 6-16, "Sign(s) to be Posted at Each Entrance in the Event of an Emergency Closure; Removal of Sign(s)," and Section 6-17, "Penalties for Violation of Emergency Closure Order; Failure to Comply," of the Lafayette City-Parish Consolidated Government Code of Ordinances need to be created in order to increase efforts to obtain and maintain peace and good order in an establishment located in the City of Lafayette and the unincorporated areas of the Parish of Lafayette.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City-Parish Council, that:

SECTION 1: All of the aforescribed "Whereas" clauses are adopted as part of this ordinance.

SECTION 2: Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-1, "Definitions," of the Lafayette City-Parish Consolidated Government Code of Ordinances needs to be amended in order to amend the definition of "Director," to exclude reference to the Sheriff, in alphabetical order as follows:

Director means the Chief Administrative Officer of Lafayette City-Parish Consolidated Government or designee.

SECTION 3: Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-15, "Emergency Closure of an Establishment by Law Enforcement Official; Violation; Termination of Closure Order; Definition," Section 6-16, "Sign(s) to be Posted at Each Entrance in the Event of an Emergency Closure; Removal of Sign(s)," and Section 6-17, "Penalties for Violation of Emergency Closure Order; Failure to Comply," of the Lafayette City-Parish Consolidated Government Code of Ordinances are hereby created, to read, as follows:

Sec. 6-15. Emergency closure of an establishment by Law Enforcement Official: Violation; termination of closure order; definition.

- (a) *Grounds for emergency closure order.* The Law Enforcement Official may order that an establishment be immediately closed when presented with circumstances described below. The decision by the Law Enforcement Official as to whether such establishment shall be immediately closed, shall be made as set forth herein, if he finds that:
 - (1) There is an imminent danger to the health, safety and welfare of the public, as defined in subsection 6-15(d); and
 - (2) There is no other reasonable measure immediately available to ameliorate the finding in paragraph (1) of this subsection.
- (b) *Violation.* An emergency closure of an establishment shall constitute a violation under this chapter and is subject to the procedures and provisions of sections 6-4 and 6-5, herein.
- (c) *Termination of emergency closure order.* The emergency closure order shall terminate after the Law Enforcement Official determines that there is no longer imminent danger to the health, safety and welfare of the public.
- (d) *Definition.* For purposes of this section only, "Imminent danger to the health, safety and welfare of the public," means the existence or the impending existence of a condition, situation, violation, practice or omission that could reasonably be expected by the Law Enforcement Official to cause substantial physical harm to persons inside and/or outside of an establishment.

Sec. 6-16. Sign(s) to be posted at each entrance in the event of an emergency closure; removal of sign(s).

- (a) *Sign(s) to be posted.* If an establishment is ordered by the Law Enforcement Official to close pursuant to section 6-15, then the Law Enforcement Official shall conspicuously post a sign with the following wording in at least one-inch black letters with white background at each public entrance of the establishment at the time of the closure: "THIS ESTABLISHMENT IS CLOSED UNTIL FURTHER NOTICE PURSUANT TO THE LCG CODE OF ORDINANCES - SECTION 6-15." The sign(s) shall remain posted until the emergency closure order of the Law Enforcement Official has been terminated.
- (b) *Removal of sign(s).* Any person who removes the sign(s) required by this section herein prior to the direction of the Law Enforcement Official, shall be subject to arrest and sentenced in accordance with section 1-9 of this Code.

Sec. 6-17. Penalties for violation of emergency closure order; failure to comply.

If the Law Enforcement Official orders a Permittee and/or his designee to close his establishment pursuant to section 6-15 and the Permittee and/or his designee neglects, fails or refuses to comply with the direction of the Law Enforcement Official, then the noncompliant Permittee or his designee shall be subject to arrest and sentenced in accordance with Section 1-9 of this Code. Further, the Permittee's and/or his designee's neglect, failure or refusal to comply with the Emergency Closure Order of the Law Enforcement Official shall constitute a violation under this chapter and is subject to the procedures and provisions of section 6-4 and 6-5, herein.

SECTION 4: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall become effective upon signature of the Lafayette City-Parish President, the elapse of ten (10) days after receipt by the Lafayette City-Parish President without signature or veto, or upon an override of a veto, whichever occurs first.

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WHEREAS, Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-1, "Definitions," of the Lafayette City-Parish Consolidated Government Code of Ordinances needs to be amended in order to amend the definition of "Director" in order to exclude reference to the Sheriff; and

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SECTION 2: Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-1, "Definitions," of the Lafayette City-Parish Consolidated Government Code of Ordinances needs to be amended in order to amend the definition of "Director," to exclude reference to the Sheriff, in alphabetical order as follows:

Director means the Chief Administrative Officer of Lafayette City-Parish Consolidated Government or designee, ~~provided that with reference to premises located in the unincorporated areas of the parish, the term "director" means the sheriff.~~

SECTION 3: Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-15, "Emergency Closure of an Establishment by Law Enforcement Official; Violation; Termination of Closure Order; Definition," Section 6-16, "Sign(s) to be Posted at Each Entrance in the Event of an Emergency Closure; Removal of Sign(s)," and Section 6-17, "Penalties for Violation of Emergency Closure Order; Failure to Comply," of the Lafayette City-Parish Consolidated Government Code of Ordinances are hereby created, to read, as follows:

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(1) There is an imminent danger to the health, safety and welfare of the public, as defined in subsection 6-15(d); and

(2) There is no other reasonable measure immediately available to ameliorate the finding in paragraph (1) of this subsection.

(b) *Violation.* An emergency closure of an establishment shall constitute a violation under this chapter and is subject to the procedures and provisions of sections 6-4 and 6-5, herein.

(c) *Termination of emergency closure order.* The emergency closure order shall terminate after the Law Enforcement Official determines that there is no longer imminent danger to the health, safety and welfare of the public.

(d) *Definition.* For purposes of this section only, "imminent danger to the health, safety and welfare of the public,"

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(b) Removal of sign(s). Any person who removes the sign(s) required by this section herein prior to the direction of the Law Enforcement Official, shall be subject to arrest and sentenced in accordance with section 1-9 of this Code.

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If the Law Enforcement Official orders a Permittee and/or his designee to close his establishment pursuant to section 6-15 and the Permittee and/or his designee neglects, fails or refuses to comply with the direction of the Law Enforcement Official, then the noncompliant Permittee or his designee shall be subject to arrest and sentenced in accordance with Section 1-9 of this Code. Further, the Permittee's and/or his designee's neglect, failure or refusal to comply with the Emergency Closure Order of the Law Enforcement Official shall constitute a violation under this chapter and is subject to the procedures and provisions of section 6-4 and 6-5, herein.

SECTION 4: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall become effective upon signature of the Lafayette City-Parish President, the elapse of ten (10) days after receipt by the Lafayette City-Parish President without signature or veto, or upon an override of a veto, whichever occurs first.

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Summary of Proposed Emergency Closure Ordinance

This is a proposed ordinance authorizing the Law Enforcement Official to order an emergency closure of an establishment in the City of Lafayette and/or the unincorporated areas of the Parish of Lafayette when presented with an imminent danger to the health, safety and welfare of the public, to require signs to be posted indicating closure, and to penalize persons who fail to comply with an emergency closure order.

It also amends the definition of "Director" in order to exclude reference to the Sheriff since the Chief Administrative Officer shall be the only Director who will conduct the hearings if there is a violation of Chapter 6 of the Lafayette City-Parish Consolidated Government Code of Ordinances.

LAFAYETTE CONSOLIDATED GOVERNMENT
INTERNAL MEMORANDUM

Paul D. Escott
City-Parish Attorney
Legal Department (140)

Telephone: 210-8171

E-mail: pescott@lafayettegov.com

Fax:

DATE: April 21, 2017
TO: Veronica Williams, Clerk of Council (110)
THRU: Lowell Duhon, Chief Administrative Officer (121)
FROM: Paul D. Escott, City-Parish Attorney
SUBJ: Emergency Closure Ordinance

Veronica, attached please find a redlined and clean copy of an emergency closure ordinance which authorizes a Law Enforcement Official to close an establishment when there is imminent danger presented to the public. Such ordinance also amends the definition of Director to delete reference to the Sheriff because the Chief Administrative Officer shall constitute the Director and handle hearings for violations of Chapter 6 of the Lafayette City-Parish Consolidated Government Code of Ordinances. I have also included a summary of the Ordinance for the Council's review.

Therefore, I enclose herewith the following, to-wit:

- (a) An Ordinance of the Lafayette City-Parish Council to Amend Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-1, "Definitions," of the Lafayette City-Parish Consolidated Government Code of Ordinances in Order to Amend the Definition of "Director" in Order to Exclude a Reference to the Sheriff; to Create Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-15, "Emergency Closure of an Establishment by Law Enforcement Official; Violation; Termination of Closure Order; Definition," Section 6-16, "Sign(s) to be Posted at Each Entrance in the Event of an Emergency Closure; Removal of Sign(S)," and Section 6-17, "Penalties for Violation of Emergency Closure Order; Failure to Comply," of the Lafayette City-Parish Consolidated Government Code of Ordinances in Order to Authorize the Appropriate Law Enforcement Official to Order an Emergency Closure of an Establishment in the City of Lafayette and/or the Unincorporated Areas of the Parish of Lafayette When Presented With an Imminent Danger to the Health, Safety and Welfare of the Public, to Require Signs to be Posted Indicating Closure, and to Penalize Persons Who Fail to Comply With an Emergency Order;

- (b) Redlined version of Ordinance;
- (c) Summary of Ordinance; and
- (c) Agenda Item Submittal Form.

After I sign the Agenda Item Submittal Form, the enclosed package shall be forwarded to Mr. Duhan, who shall also sign the Agenda Item Submittal Form and thereafter forward it to the Clerk's office.

Should you have any questions, please feel free to call upon me.

Paul D. Escott
City-Parish Attorney

LAFAYETTE CITY-PARISH COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

If this involves a budget revision, please complete an Authorization for Budgetary Revision Form.

- 1) **JUSTIFICATION FOR REQUEST:** An Ordinance of the Lafayette City-Parish Council to Amend Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-1, "Definitions," of the Lafayette City-Parish Consolidated Government Code of Ordinances in Order to Amend the Definition of "Director" in Order to Exclude a Reference to the Sheriff; to Create Chapter 6, "Alcoholic Beverages," Article I, "In General," Section 6-15, "Emergency Closure of an Establishment by Law Enforcement Official; Violation; Termination of Closure Order; Definition," Section 6-16, "Sign(s) to be Posted at Each Entrance in the Event of an Emergency Closure; Removal of Sign(S)," and Section 6-17, "Penalties for Violation of Emergency Closure Order; Failure to Comply," of the Lafayette City-Parish Consolidated Government Code of Ordinances in Order to Authorize the Appropriate Law Enforcement Official to Order an Emergency Closure of an Establishment in the City of Lafayette and/or the Unincorporated Areas of the Parish of Lafayette When Presented With an Imminent Danger to the Health, Safety and Welfare of the Public, to Require Signs to be Posted Indicating Closure, and to Penalize Persons Who Fail to Comply With an Emergency Order
- 2) **ACTION REQUESTED:** Adoption of Ordinance
- 3) **COUNCIL DISTRICT(S) (CIP PROGRAM/PROJECTS ONLY):** N/A
- 4) **REQUESTED ACTION OF COUNCIL:**
 - A) INTRODUCTION: May 2, 2017
 - B) FINAL ADOPTION: May 16, 2017
- 5) **DOCUMENTATION INCLUDED WITH THIS REQUEST:**
 - A) Redline Copy of Ordinance;
 - B) Clean Copy of Ordinance;
 - C) Explanatory Correspondence; and
 - D) Summary of Ordinance.
- 6) **FISCAL IMPACT:**

_____ Fiscal Impact (Explain)

X No Fiscal Impact

RECOMMENDED BY:


PAUL ESCOTT

APPROVED FOR AGENDA:


LOWELL DUHON

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